IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO.1219 OF 2005

City Bank N.A.
a Body Corporate constituted under
the Laws of U.S.A. having their
Principal Place of business at 399
Park Avenue, New York, U.S.A. and
having their operation in India at
Bombay through its office at
Sakhar Bhavan, Nariman Point,
Bombay 400 021.

...Plaintiffs.

Vs.

Arun Dattaram Rasam,
Sriniwas Chawl, J.B. Nagar,
A.K.Road, Andheri, Bombay 400 059.

...Defendant.

Ms. Kavita Anchan i/by M.V. Kini & Co. for the Plaintiff.

CORAM: A.S. OKA, J.
DATE : SEPTEMBER 4, 2007

ORAL JUDGMENT :

1. This suit is listed under the caption "For Want of Written Statement".

2. The plaintiffs have filed this suit for recovery of a sum of Rs.1,52,114.36ps. together with interest at the rate of 18% per annum on Rs.1,18,056/-.

3. According to the case of the plaintiffs, under their

"CITYMOBILE FINANCE" scheme a sum of Rs.1,33,809/- was advanced by the plaintiffs to the defendant for purchasing a vehicle. The loan was advanced on 22nd May,1991. The defendant was to repay the said amount by monthly instalments. 24-post dated cheques totally amounting to Rs.1,18,056/- issued by the defendants were dishonoured. The particulars of the said cheques have been mentioned in the plaint. By order dated 12th October, 1998 passed on the Summons for Judgement taken out by the plaintiffs, unconditional leave to defend the suit was granted to the defendant. However, the written statement has not been filed.

4. The plaintiffs have tendered on record an affidavit of Mr. Praag Sudhir Parekh, Constituted Attorney of the plaintiffs. A compilation of documents is also placed on record. Alongwith the compilation, the original loan application made by the defendant has been filed on record. The plaintiffs have also filed on record the Agreement executed by the defendant as well as the Promissory Note dated 3rd May,1991 executed by the defendant in favour of the plaintiffs in the sum of Rs.1,33,709/-. The said Promissory Note records that the agreed interest was 1.25% p.a. above the City Bank prime rate as may be prevailing from time to time with a minimum of 16% per annum.

5. The claim in the suit has not been disputed by the defendant by filing written statement. Before filing the suit, Notice dated 21st May,1994 was issued by the Advocate for the plaintiffs to the defendant calling upon him to repay the entire amount. Thus, the claim made by the plaintiffs will have to be accepted as true. The plaintiffs have claimed further interest at the rate of 18% per annum. Considering the facts and circumstances of the case, further interest will have to be granted at the rate of 12% p.a. Accordingly, the suit is decreed as prayed with a modification that the interest payable on Rs.1,18.056/- will be at the rate of 12% p.a. from the date of the suit till the date of payment or realization.

6. The plaintiffs are entitled to refund of court fee, if any, as per the rules.

7. Certified copy is expedited.

(A.S. OKA, J.)